

REMARKS

The Office Action mailed on October 24, 2005 has been carefully considered and the Examiner's remarks are appreciated. Claims 1-20 were originally submitted, and claims 7-10 have been allowed. The remaining claims 1-6 and 11-20 were either rejected or objected, and are therefore presented here for examination. Please note that claims 4, 7 and 14 are amended simply to provide proper antecedent basis for a subsequent limitation. Applicant respectfully requests reconsideration of claims 1-6 and 11-20 in view of the above amendments and the following remarks.

Discussion of Claim Objections

The Examiner objected to claims 3-15 and 13-15 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has not amended these claims at this time pending continued examination on the merits of the underlying base claims.

Discussion of the Rejections Under 35 USC §103(a)

The Examiner rejected claims 1, 2, 6, 11, 12, and 16-20 under 35 USC §103(a) as being unpatentable over U.S. Pat. No. 6,726,549 to Rivir et al ("Rivir"), or the admitted prior art (APA) in view of River. However, Applicants respectfully submit that these rejections are

improper since the cited reference does not teach or suggest all the limitations of these claims as required by MPEP §2143.03 as follows in part:

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art”

In support of his 103-based rejections, the Examiner stated that Rivir discloses, “a pneumatic feed line having member 90 in the flow passageway to treat clumped material,” and that “Rivir et al solves this problem [of clumped material] by placing a member 90 within the flow path to break up material” (emphasis added). However, a closer reading of Rivir reveals that the Examiner has misconstrued the location and operation of the member 90. In particular, column 7 line 38 through column 8 line 6 of Rivir describes the member 90 as being selectively extendable into the particle flow to “strike, upon extension, any clumps of particles that are near receiving station 86 which are large enough to block the flow or which are too large to enter transport cavities 84” (emphasis added). As such, the extendable member is normally not in the flow path until a blockage is detected in the flow path either automatically or by an operator, at which time the extendable member is “cycled” i.e. extended (to strike the blockage) and then retracted again. It can be seen therefore, that the following limitation in each of independent claim 1 and independent claim 11 is clearly not met:

“A diverter located in the inlet and in a path of incoming material from the upstream portion of the material feed line, for breaking up clumps of said material impinging upon said diverter” (emphasis added).

The member 90 of Rivir is clearly not in the path of incoming material, and thus material cannot impinge upon the member 90.

Furthermore, Applicant respectfully submits that Rivir does not teach "*an upstream portion of the pneumatic material feed line*" as in claims 1 and 11 which provides the upstream pressure to drive and impinge material upon the diverter. In contrast, the hopper is not pneumatically pressurized to force material towards the extendable member which is located at the hopper exit 26. It is the presence of a pressurized flow which enables the diverter of the present invention to operate as an impingement object upon which material is caused to strike, and not the other way around.

And the Examiner also stated in support of his rejections that while no vent is shown in the Rivir reference, it is well known in the art to vent areas where pressure may build to prevent explosions from occurring, and therefore it would have been obvious to modify Rivir by providing a vent wherever desired. Applicant respectfully submits, however, that there must be some teaching or suggestion in the art to combine the use of vents to the Rivir reference. As discussed above, however, Rivir does not provide a "*pneumatic material feed line*" upstream of the extendable member 90 and therefore there is no upstream pressure which requires air venting. Therefore, while certainly material blockage is an issue in Rivir, such blockage is not a type for which there is a need to "*prevent explosions from occurring,*" which the Examiner suggested is a reason one skilled in the art would have made the modification in the first place.

Summary

Applicant therefore respectfully submits that claims 1-6 and 11-20 are in condition for allowance, and requests allowance of claims 1-6 and 11-20 in addition to already allowed claims 7-10. In the event that the Examiner finds any remaining impediment to allowance that could be clarified with a telephone conference, he is respectfully requested to initiate the same with the undersigned at (925) 422-7274.

Respectfully submitted,

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